

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19791
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting the property tax reduction benefit for 2006. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on the file.

[Redacted] (petitioner) filed an application for the 2006 property tax reduction benefit on April 14, 2006. During review of that application as provided for in Idaho Code § 63-707(5), the staff noted the petitioner qualified to receive the benefit as the widow [Redacted].

The staff sent the petitioner a letter advising her of the intent to deny her the benefit because more information was required. She was asked to provide a copy of her late husband's death certificate and a complete copy of her federal income tax return.

The petitioner sent a letter asking for reconsideration. She enclosed a copy of the death certificate [Redacted]. [Redacted] was shown as his wife at the time of his death. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit:

63-701. DEFINITIONS. As used in this chapter:

(1) **"Claimant" means a person who has filed a claim** under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and **on January 1 of said year a claimant must be:**

- (a) Not less than sixty-five (65) years old; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) **A widow** or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind.

The code sets out certain eligibility requirements for persons seeking the property tax reduction benefit. In her application for the benefit, the petitioner claimed she qualified for the benefit as a widow. With her appeal letter, she sent a copy of a Social Security Administration "Retirement, Survivors and Disability Insurance Notice of Award" statement showing she is receiving widow's benefits.

However, Tax Commission records show the petitioner remarried after the death [Redacted].

Although, the record suggests the petitioner is no longer married, the petitioner gave up

her status as a widow when she remarried. Social Security benefits for widows are not necessarily stopped when a widow remarries.

Idaho State Tax Commission Property Tax Administrative Rule 700.07 defines widow/widower as: “A widow/widower is a person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled.”

According to the requirements of Idaho Code § 63-701 and Administrative Rule 700 describing the property tax reduction benefit program, the petitioner gave up her status as a widow when she remarried following the death of her husband. Only an annulment could have dissolved the marriage without having an effect on the petitioner’s status as a widow.

On January 1, 2006, the petitioner was less than 65 years old, was not a child under the age of 18, was not a widow, was not disabled, and was not blind. The petitioner does not qualify as a claimant for the property tax reduction benefit. She must be denied the benefit for 2006.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction benefit applicant. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the Intent to Deny Property Tax Reduction Benefit letter dated October 18, 2006, is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner’s right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.
